

76-6890/7

THE WHITE HOUSE

WASHINGTON

April 29, 1976

clp

MEMORANDUM FOR

PHIL BUCHEN  
GEORGE BUSH  
BOB ELLSWORTH  
BILL HYLAND  
BILL MORELL  
DON OGILVIE  
JIM POOR  
HAL SAUNDERS  
NINO SCALIA

FROM:

MIKE DUVAL

SUBJECT: Revision of Annotations to Executive Order 11905

Attached are several revised pages of annotations to the Executive Order on foreign intelligence activities. These contain minor changes prompted by comments on the original version. The other pages of annotations have not been changed.

There is one provision on which we are not prepared to issue a final annotation. Section 4(a)(5) requires senior officials of the intelligence community to report to the Attorney General information relating to violations of law. The current annotation interprets this as requiring reporting of violations of only federal law. Several questions have arisen about this section. One is whether this provision should be read as requiring reporting to the Attorney General on possible violations of federal law as to which an agency other than the Justice Department has primary investigatory jurisdiction. For example, the Secret Service has primary investigatory jurisdiction over certain crimes related to currency. We are at present seeking an informal opinion from the Justice Department on the interpretation of this provision and will advise you on the resolution of this issue.

EX-101 FILE

T 23.1

Annotations (p. 25)

(a)(6) For the purposes of this order, the CIA, NSA, and DIA are considered "foreign intelligence agencies" (and therefore subject to these restrictions) with respect to all of their activities. Other agencies (not including the FBI) are deemed "foreign intelligence agencies" whenever they are engaged in activities related to foreign intelligence or counterintelligence.

(a)(8) The definition of physical surveillance refers primarily to systematic observation of an individual designed to determine all of his regular daily activities. It also refers to the acquisition of an oral communication by a person not otherwise a party thereto or visibly present thereat through any means which does not involve electronic surveillance. This second half of the definition refers primarily to a situation where a person hides in a room to overhear what persons in the room are saying.

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Annotations (p. 28) Continued

(b)(7)(ii) The word "employees" in the second line of Section 5(b)(7)(ii) should be read to include an employee of a non-intelligence element of a department or agency in a case where information on him is collected for counterintelligence purposes by another element of the department or agency responsible for counter-intelligence throughout the department or agency.

(b)(7)(iii) Each intelligence agency will on occasion consider contacting a U.S. person because he may be a potential source or contact who will aid the agency. Before making such contacts, however, the agency will want to be assured that the person would be suitable for such assistance. This exception therefore allows collection of information on such persons, but only for the purpose of determining their suitability or credibility. Furthermore, such a person must reasonably be considered to be a potential source or contact.

TRANSMITTAL SLIP		DATE
TO: <i>Mr Evans</i>		<i>3 May 76</i>
ROOM NO.	BUILDING	
REMARKS:		
<p><i>SA/DCI brought to ER for routine handling. He said Mr Bush handed it to him.</i></p> <p style="text-align: center;"><i>Lucas</i></p>		
FROM:		
ROOM NO.	BUILDING	EXTENSION

UNCLASSIFIED	CONFIDENTIAL	SECRET
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**EXECUTIVE SECRETARIAT****Routing Slip**

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	S/MC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/IC	✓			
9	D/DCI/NID				
10	GC		✓		
11	LC				
12	IG				
13	Compt				
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI				
18	AO/DCI				
19					
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21					
22					
SUSPENSE		Date			

Remarks:

*For info + appropriate action.*

Executive Secretary

*g MAY*  
Date

3637 (1-75)

**Executive Registry  
Room 7-E-12  
Headquarters**

(EXEMPTED)

TRANSMITTAL		DATE
IP		20 Feb 76
TO:		
Mr. Evans		
ROOM NO.	BUILDING	
REMARKS:		
DDA distributed the Executive Order on 18 Feb 76.		
Eunice		
FROM:		
ROOM NO.	BUILDING	EXTENSION

UNCLASSIFIED	CONFIDENTIAL	SECRET
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**EXECUTIVE SECRETARIAT****Routing Slip**

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	S/MC				
4	DDS&T				
5	DDI				
6	DDA	X			
7	DDO				
8	D/DCI/IC				
9	D/DCI/NIO				
10	GC				
11	LC				
12	IG				
13	Compt				
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI				
18	AO/DCI				
19					
20					
21					
22					
SUSPENSE		Date			

**Remarks:**

Is this identical to the one you distributed on 18 February? If not, please make corrected distribution.

Executive Secretary

20 February 1976